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July 11, 2005

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VIA HAND DELIVERY

Hon. Ron Jones, Chairman  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37238

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Re *BellSouth Tariff to Introduce Transit Traffic Service (No. 04-01259)*  
Docket No. 04-00380

Dear Chairman Jones:

Enclosed are the original and fourteen copies of BellSouth's *Response to Request for Standstill Order*. Copies of the enclosed are being provided to your record.

Cordially,

*Joelle Phillips*  
Joelle Phillips  
*by Carolyn Hancock*  
*w/express permission*

JJP:ch

BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE

In Re: *BELLSOUTH TARIFF FILING TO INTRODUCE TRANSIT TRAFFIC  
SERVICE, TARIFF NO. 04-01259*

Docket No. 04-00380

**BELLSOUTH'S RESPONSE TO REQUEST  
FOR "STANDSTILL ORDER" BY THE RURAL ICOs**

BellSouth Telecommunications Inc. ("BellSouth") files this response to the Petition, which was filed by the Rural Independent Coalition ("the ICOs") on June 10, 2005. That Petition, which seeks an Order prohibiting BellSouth from collecting for transit service, clearly presumes, however, that BellSouth will continue providing transit service to the ICOs. This request is for more than a "standstill". Instead, it is an invitation to the Authority to order BellSouth to provide service without remuneration in violation of both federal and state constitutional protections against takings.

Moreover, the Petition makes no attempt to square the relief sought with the substantial history of the transit traffic issue before the TRA. First, the ICOs seek to be permitted to originate traffic and send it to BellSouth for delivery to a third party-without paying BellSouth for transit service. This is flatly contrary to the TRA's decision, in the ICO arbitration, that originating carriers pay for transit charges. Second, the ICOs complain about the set-off of those transit charges against other amounts payable from BellSouth to the ICOs. This argument utterly ignores the purpose of the tariff, which is to address situations in which parties fail to provide for a contractual arrangement for this traffic yet send traffic to BellSouth. If BellSouth is forced to contract for a new

collection system, then the ICOs will again, as before the tariff, be able to ignore transit charges unless the transiting carrier litigates to collect.

In addition, the Petition ignores the ICO's own mysterious failure to pursue their earlier intervention in this docket. The ICO strangely chose not to appear when the Authority considered this tariff. As a result, the tariff is now in effect and cannot be set aside except in accordance with TCA 65-5-101. Parties should not be permitted to delay by failing to appear on the noticed day of deliberation and instead raising issues after that deliberation has concluded.

Finally, and perhaps most significantly, from a policy perspective, the ICOs seek relief that flies in the face of competitive parity for CLECs and wireless carriers, who have taken responsibility for payment of these same fees when the traffic flows in the other direction.

For these reasons, those set out in BellSouth's Initial Response (filed June 23, 2005), those set out in BellSouth's letter (filed July 8, 2005), and those set forth below, the TRA should deny the request for a "Standstill Order" and instead order the parties to mediate their dispute.

**BellSouth responds to the numbered paragraphs in the ICO Petition as follows:**

1. BellSouth admits its use of the long-standing settlements process to collect transit fees under the tariff. Because the ICOs have consistently refused to execute an agreement for transit (unlike the CLECs and wireless carriers), the ICOs have agreed to no specific collection method. The tariff does not prohibit the netting of the fees with other amounts

In addition, BellSouth notes that the ICOs could measure their own transit traffic, which they originate if they chose to do so. Consequently, BellSouth denies the remaining allegations of Paragraph 1.

2. BellSouth does not dispute the description of the general settlements process outlined in Paragraph 2. BellSouth does, however, dispute that the settlements process is limited to access charges and toll. Rather, the process provides for intercarrier compensation between most ICOs and BellSouth. BellSouth in many cases utilizes the current settlements process to net amounts owed from some ICOs for services purchased from BellSouth, such as directory services.

3. BellSouth denies the allegations of Paragraph 3. The tariff does not provide for "pre-approval" of transit fees by the ICOs. In fact, the tariff was intended to prevent further delay in collection of these fees from ICOs who have refused to reach an agreed process for collection, which would exempt them from the tariff. Notably, the ICOs have never agreed to any dollar amount representing "undisputed" transit charges.

4. BellSouth denies the allegations of Paragraph 4.

5. BellSouth responds that Paragraph 5 is merely legal argument requiring no factual response. Nonetheless, questions of this nature were not timely raised before the noticed February deliberation on this tariff and consequently do not merit interim relief of any kind much less the illegal, unconstitutional relief sought by the ICOs.

6. BellSouth responds that Paragraph 6 is merely legal argument requiring no factual response. Nonetheless, questions of this nature were not timely raised before the noticed February deliberation on this tariff and consequently do not merit

interim relief of any kind much less the illegal, unconstitutional relief sought by the ICOs.

### DEFENSES

- 1 BellSouth's actions were legal and consistent with its tariff, which became effective in February, some four months before the "Emergency" Petition was filed
2. The ICO Petition does not satisfy the standard in TCA 65-5-101.
3. The ICOs seek relief that would force BellSouth to either provide service without payment or block traffic. ICO endusers have no reason to expect that local calls to wireless phones or CLEC customers will be blocked

Wherefore, for the foregoing reasons, and the reasons outlined in BellSouth's other filings in t his docket, BellSouth urges the Authority to reject the Petition and schedule mediation to resolve individual disputes with the companies comprising the Coalition.

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.

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## CERTIFICATE OF SERVICE

I hereby certify that on July 11, 2005, a copy of the foregoing document was served on the following, via the method indicated:

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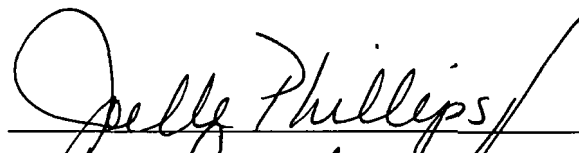
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